

Application No.: 10/554090  
Docket No.: BA9318USPCT

Page 2

### REMARKS

Claims 1-11 are pending in the application and are subject to restriction under 35 U.S.C. 121 and 372. The application was deemed to contain the following inventions or groups of inventions:

Group I, claims 1-6 (in part) and 7-9, drawn to the process of making Formula 1a compounds, wherein K is, together with two contiguous linking carbon atoms, an optionally substituted fused phenyl ring;

Group II, claims 1-6 (in part) and 7-9, drawn to the process of making Formula 1a compounds, wherein K is, together with two contiguous linking carbon atoms, an optionally substituted 5- or 6-membered heteroaromatic ring; and

Group III, claims 10-11, drawn to a process of making Formula III compounds from Formula 1a compounds.

Applicant elects Group I with traverse. Applicant reserves the right to file one or more divisional applications to unelected subject matter.

The present patent application results from a patent application filed under the Patent Cooperation Treaty and which entered the United States under 35 U.S.C. 371. PCT Rules 13.1 and 13.2 and 37 CFR 1.475(a) state that unity of invention is satisfied by a patent application relating to one invention or to a group of inventions sharing one or more special technical features defining a contribution over the prior art. The European Patent Office handling the PCT Search did search the entire scope and expressed no difficulty searching the entire scope now proposed to be subdivided three (3) ways.

Applicant recognizes that irrespective of the availability of the PCT Search Report, the Examiner needs to conduct his own search and make his own assessment of patentability of the claimed subject matter, and in this context is furthermore entitled to reconsider unity of invention. Applicant respectfully requests that the Examiner reconsider the justification offered for this Restriction.

Group I and Group III: Because the inventive feature of the Group III claims is based primarily upon the novelty and non-obviousness of the Group I claims, i.e. Claim 10 is dependent on Claim 8, rejoining Group I and Group III should not add an extra burden on the

Application No.: 10/554090  
Docket No.: BA9318USPCT

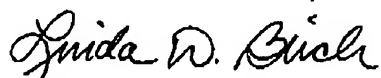
Page 3

Examiner beyond the effort of searching elected Group I. If Claim 8 is determined to be novel and non-obvious, no further searching will be needed to establish that Claim 10 also meets the requirements of novelty and non-obviousness.

Group I and Group II: The distinct inventive feature of the presently claimed method involves chemical transformation of the isatoic anhydride portion of Formula 5 compounds to the corresponding fused oxazinones of Formula 1 and does not depend on the nature of K (i.e. whether K is a fused phenyl or other 5- or 6-membered heteroaromatic ring). Applicant believes that Group I and Group II indeed share a common special technical feature, i.e. that the isatoic anhydride moiety can be converted into the fused oxazinone by the presently claimed method. Therefore, Applicant respectfully asks the Examiner to reconsider and rejoin Group I and Group II claims.

In conclusion, Group I and Group III should be rejoined as posing no extra burden on the Examiner, and Group I and Group II should be rejoined as sharing the same special technical feature. Therefore, Groups I, II and III claims should be rejoined as a single invention. In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



**LINDA D. BIRCH**  
AGENT FOR APPLICANT  
Registration No.: 38,719  
Telephone: (302) 992-4949  
Facsimile: (302) 892-7949

Dated: February 06, 2007